

**BEFORE THE
MEDICAL BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

**In the Matter of the First Amended
Accusation Against:**

Rajwinder Singh Bahia, M.D.

**Physician's and Surgeon's
Certificate No. A 106330**

Respondent

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Case No. 800-2018-051290

DECISION

**The attached Stipulated Settlement is hereby adopted as the Decision and Order of
the Medical Board of California, Department of Consumer Affairs, State of California.**

This Decision shall become effective at 5:00 p.m. on September 13, 2019.

IT IS SO ORDERED: August 15, 2019.

MEDICAL BOARD OF CALIFORNIA



**Ronald H. Lewis, M.D., Chair
Panel A**

1 XAVIER BECERRA
Attorney General of California
2 STEVEN D. MUNI
Supervising Deputy Attorney General
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10 **BEFORE THE**
11 **MEDICAL BOARD OF CALIFORNIA**
12 **DEPARTMENT OF CONSUMER AFFAIRS**
13 **STATE OF CALIFORNIA**

14 In the Matter of the First Amended Accusation
Against:

15 **RAJWINDER SINGH BAHIA, M.D.**
16 **3921 Ruisdael Dr.**
Modesto, CA 95656

17 **Physician's and Surgeon's Certificate No. A**
18 **106330**

19 Respondent.

Case No. 800-2018-051290

**STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER**

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21 IT IS HEREBY STIPULATED AND AGREED by and between the parties to the above-
22 entitled proceedings that the following matters are true:

23 **PARTIES**

24 1. Kimberly Kirchmeyer (Complainant) is the Executive Director of the Medical Board
25 of California (Board). She brought this action solely in her official capacity and is represented in
26 this matter by Xavier Becerra, Attorney General of the State of California, by Megan R.
27 O'Carroll, Deputy Attorney General.

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2. Respondent Rajwinder Singh Bahia, M.D. (Respondent) is represented in this proceeding by attorney Louis J. Anapolsky, whose address is: 2339 Gold Meadow Way, Suite 205, Gold River, CA 95670.

3. On or about December 19, 2008, the Board issued Physician's and Surgeon's Certificate No. A 106330 to Rajwinder Singh Bahia, M.D. (Respondent). The Physician's and Surgeon's Certificate was in full force and effect at all times relevant to the charges brought in Accusation No. 800-2018-051290, and will expire on June 30, 2020, unless renewed.

JURISDICTION

4. First Amended Accusation No. 800-2018-051290 was filed before the Board, and is currently pending against Respondent. The First Amended Accusation and all other statutorily required documents were properly served on Respondent on June 21, 2019. The First Amended Accusation was filed on July 15, 2019. Respondent timely filed his Notice of Defense contesting the Accusation.

5. A copy of First Amended Accusation No. 800-2018-051290 is attached as exhibit A and incorporated herein by reference.

ADVISEMENT AND WAIVERS

6. Respondent has carefully read, fully discussed with counsel, and understands the charges and allegations in First Amended Accusation No. 800-2018-051290. Respondent has also carefully read, fully discussed with counsel, and understands the effects of this Stipulated Settlement and Disciplinary Order.

7. Respondent is fully aware of his legal rights in this matter, including the right to a hearing on the charges and allegations in the First Amended Accusation; the right to confront and cross-examine the witnesses against him; the right to present evidence and to testify on his own behalf; the right to the issuance of subpoenas to compel the attendance of witnesses and the production of documents; the right to reconsideration and court review of an adverse decision; and all other rights accorded by the California Administrative Procedure Act and other applicable laws.

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8. Respondent voluntarily, knowingly, and intelligently waives and gives up each and every right set forth above.

CULPABILITY

9. Respondent understands and agrees that the charges and allegations in First Amended Accusation No. 800-2018-051290, if proven at a hearing, constitute cause for imposing discipline upon his Physician's and Surgeon's Certificate.

10. For the purpose of resolving the First Amended Accusation without the expense and uncertainty of further proceedings, Respondent agrees that, at a hearing, Complainant could establish a factual basis for the charges in the First Amended Accusation, and that Respondent hereby gives up his right to contest those charges. Respondent agrees that if he ever petitions for early termination or modification of probation, or if an accusation and/or petition to revoke probation is filed against him, before the Medical Board of California, all of the charges and allegations contained in First Amended Accusation No. 800-2018-051290 shall be deemed true, correct and fully admitted by Respondent for purposes of that proceeding or any other licensing proceeding involving Respondent in the State of California.

11. Respondent agrees the Disciplinary Order below, requiring the disclosure of probation pursuant to Business and Professions Code section 2228.1, serves to protect the public interest.

12. Respondent agrees that his Physician's and Surgeon's Certificate is subject to discipline and he agrees to be bound by the Board's probationary terms as set forth in the Disciplinary Order below.

CONTINGENCY

13. This stipulation shall be subject to approval by the Medical Board of California. Respondent understands and agrees that counsel for Complainant and the staff of the Medical Board of California may communicate directly with the Board regarding this stipulation and settlement, without notice to or participation by Respondent or his counsel. By signing the stipulation, Respondent understands and agrees that he may not withdraw his agreement or seek to rescind the stipulation prior to the time the Board considers and acts upon it. If the Board fails

1 to adopt this stipulation as its Decision and Order, the Stipulated Settlement and Disciplinary
2 Order shall be of no force or effect, except for this paragraph, it shall be inadmissible in any legal
3 action between the parties, and the Board shall not be disqualified from further action by having
4 considered this matter.

5 14. The parties understand and agree that Portable Document Format (PDF) and facsimile
6 copies of this Stipulated Settlement and Disciplinary Order, including PDF and facsimile
7 signatures thereto, shall have the same force and effect as the originals.

8 15. In consideration of the foregoing admissions and stipulations, the parties agree that
9 the Board may, without further notice or formal proceeding, issue and enter the following
10 Disciplinary Order:

11 **DISCIPLINARY ORDER**

12 IT IS HEREBY ORDERED that Physician's and Surgeon's Certificate No. A 106330
13 issued to Respondent Rajwinder Singh Bahia, M.D. is revoked. However, the revocation is
14 stayed and Respondent is placed on probation for five (5) years on the following terms and
15 conditions.

16 1. ALCOHOL - ABSTAIN FROM USE. Respondent shall abstain completely from the
17 use of products or beverages containing alcohol.

18 2. CONTROLLED SUBSTANCES - ABSTAIN FROM USE. Respondent shall abstain
19 completely from the personal use or possession of controlled substances as defined in the
20 California Uniform Controlled Substances Act, dangerous drugs as defined by Business and
21 Professions Code section 4022, and any drugs requiring a prescription. This prohibition does not
22 apply to medications lawfully prescribed to Respondent by another practitioner for a bona fide
23 illness or condition.

24 Within 15 calendar days of receiving any lawfully prescribed medications, Respondent
25 shall notify the Board or its designee of the: issuing practitioner's name, address, and telephone
26 number; medication name, strength, and quantity; and issuing pharmacy name, address, and
27 telephone number.

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1 3. PROFESSIONALISM PROGRAM (ETHICS COURSE). Within 60 calendar days of
2 the effective date of this Decision, Respondent shall enroll in a professionalism program, that
3 meets the requirements of Title 16, California Code of Regulations (CCR) section 1358.1.
4 Respondent shall participate in and successfully complete that program. Respondent shall
5 provide any information and documents that the program may deem pertinent. Respondent shall
6 successfully complete the classroom component of the program not later than six (6) months after
7 Respondent's initial enrollment, and the longitudinal component of the program not later than the
8 time specified by the program, but no later than one (1) year after attending the classroom
9 component. The professionalism program shall be at Respondent's expense and shall be in
10 addition to the Continuing Medical Education (CME) requirements for renewal of licensure.

11 A professionalism program taken after the acts that gave rise to the charges in the First
12 Amended Accusation, but prior to the effective date of the Decision may, in the sole discretion of
13 the Board or its designee, be accepted towards the fulfillment of this condition if the program
14 would have been approved by the Board or its designee had the program been taken after the
15 effective date of this Decision.

16 Respondent shall submit a certification of successful completion to the Board or its
17 designee not later than 15 calendar days after successfully completing the program or not later
18 than 15 calendar days after the effective date of the Decision, whichever is later.

19 4. CLINICAL DIAGNOSTIC EVALUATIONS AND REPORTS: Within thirty (30)
20 calendar days of the effective date of this Decision, and on whatever periodic basis thereafter as
21 may be required by the Board or its designee, Respondent shall undergo and complete a clinical
22 diagnostic evaluation, including any and all testing deemed necessary, by a Board-appointed
23 board certified physician and surgeon. The examiner shall consider any information provided by
24 the Board or its designee and any other information he or she deems relevant, and shall furnish a
25 written evaluation report to the Board or its designee.

26 The clinical diagnostic evaluation shall be conducted by a licensed physician and surgeon
27 who holds a valid, unrestricted license, has three (3) years' experience in providing evaluations of
28 physicians and surgeons with substance abuse disorders, and is approved by the Board or its

1 designee. The clinical diagnostic evaluation shall be conducted in accordance with acceptable
2 professional standards for conducting substance abuse clinical diagnostic evaluations. The
3 evaluator shall not have a current or former financial, personal, or business relationship with
4 Respondent within the last five (5) years. The evaluator shall provide an objective, unbiased, and
5 independent evaluation. The clinical diagnostic evaluation report shall set forth, in the
6 evaluator's opinion, whether Respondent has a substance abuse problem, whether Respondent is a
7 threat to himself or herself or others, and recommendations for substance abuse treatment,
8 practice restrictions, or other recommendations related to Respondent's rehabilitation and ability
9 to practice safely. If the evaluator determines during the evaluation process that Respondent is a
10 threat to himself or herself or others, the evaluator shall notify the Board within twenty-four (24)
11 hours of such a determination.

12 In formulating his or her opinion as to whether Respondent is safe to return to either part-
13 time or full-time practice and what restrictions or recommendations should be imposed, including
14 participation in an inpatient or outpatient treatment program, the evaluator shall consider the
15 following factors: Respondent's license type; Respondent's history; Respondent's documented
16 length of sobriety (i.e., length of time that has elapsed since Respondent's last substance use);
17 Respondent's scope and pattern of substance abuse; Respondent's treatment history, medical
18 history and current medical condition; the nature, duration and severity of Respondent's
19 substance abuse problem or problems; and whether Respondent is a threat to himself or herself or
20 the public.

21 For all clinical diagnostic evaluations, a final written report shall be provided to the Board
22 no later than ten (10) days from the date the evaluator is assigned the matter. If the evaluator
23 requests additional information or time to complete the evaluation and report, an extension may
24 be granted, but shall not exceed thirty (30) days from the date the evaluator was originally
25 assigned the matter.

26 The Board shall review the clinical diagnostic evaluation report within five (5) business
27 days of receipt to determine whether Respondent is safe to return to either part-time or full-time
28 practice and what restrictions or recommendations shall be imposed on Respondent based on the

1 recommendations made by the evaluator. Respondent shall not be returned to practice until he or
2 she has at least thirty (30) days of negative biological fluid tests or biological fluid tests indicating
3 that he or she has not used, consumed, ingested, or administered to himself or herself a prohibited
4 substance, as defined in section 1361.51, subdivision (e), of Title 16 of the California Code of
5 Regulations.

6 The cost of the clinical diagnostic evaluation, including any and all testing deemed
7 necessary by the examiner, the Board or its designee, shall be borne by the licensee.

8 Respondent shall not engage in the practice of medicine until notified by the Board or its
9 designee that he or she is fit to practice medicine safely. The period of time that Respondent is
10 not practicing medicine shall not be counted toward completion of the term of probation.

11 Respondent shall undergo biological fluid testing as required in this Decision at least two (2)
12 times per week while awaiting the notification from the Board if he or she is fit to practice
13 medicine safely.

14 Respondent shall comply with all restrictions or conditions recommended by the examiner
15 conducting the clinical diagnostic evaluation within fifteen (15) calendar days after being notified
16 by the Board or its designee.

17 5. NOTICE OF EMPLOYER OR SUPERVISOR INFORMATION. Within seven (7) days
18 of the effective date of this Decision, Respondent shall provide to the Board the names, physical
19 addresses, mailing addresses, and telephone numbers of any and all employers and supervisors.
20 Respondent shall also provide specific, written consent for the Board, Respondent's worksite
21 monitor, and Respondent's employers and supervisors to communicate regarding Respondent's
22 work status, performance, and monitoring.

23 For purposes of this section, "supervisors" shall include the Chief of Staff and Health or
24 Well Being Committee Chair, or equivalent, if applicable, when the Respondent has medical staff
25 privileges.

26 6. BIOLOGICAL FLUID TESTING. Respondent shall immediately submit to biological
27 fluid testing, at Respondent's expense, upon request of the Board or its designee. "Biological
28 fluid testing" may include, but is not limited to, urine, blood, breathalyzer, hair follicle testing, or

1 similar drug screening approved by the Board or its designee. Respondent shall make daily
2 contact with the Board or its designee to determine whether biological fluid testing is required.
3 Respondent shall be tested on the date of the notification as directed by the Board or its designee.
4 The Board may order a Respondent to undergo a biological fluid test on any day, at any time,
5 including weekends and holidays. Except when testing on a specific date as ordered by the Board
6 or its designee, the scheduling of biological fluid testing shall be done on a random basis. The
7 cost of biological fluid testing shall be borne by the Respondent.

8 During the first year of probation, Respondent shall be subject to 52 to 104 random tests.
9 During the second year of probation and for the duration of the probationary term, up to five (5)
10 years, Respondent shall be subject to 36 to 104 random tests per year. Only if there has been no
11 positive biological fluid tests in the previous five (5) consecutive years of probation, may testing
12 be reduced to one (1) time per month. Nothing precludes the Board from increasing the number
13 of random tests to the first-year level of frequency for any reason.

14 Prior to practicing medicine, Respondent shall contract with a laboratory or service,
15 approved in advance by the Board or its designee, that will conduct random, unannounced,
16 observed, biological fluid testing and meets all of the following standards:

17 (a) Its specimen collectors are either certified by the Drug and Alcohol Testing Industry
18 Association or have completed the training required to serve as a collector for the United
19 States Department of Transportation.

20 (b) Its specimen collectors conform to the current United States Department of
21 Transportation Specimen Collection Guidelines.

22 (c) Its testing locations comply with the Urine Specimen Collection Guidelines published
23 by the United States Department of Transportation without regard to the type of test
24 administered.

25 (d) Its specimen collectors observe the collection of testing specimens.

26 (e) Its laboratories are certified and accredited by the United States Department of Health
27 and Human Services.

28 (f) Its testing locations shall submit a specimen to a laboratory within one (1) business day

1 of receipt and all specimens collected shall be handled pursuant to chain of custody
2 procedures. The laboratory shall process and analyze the specimens and provide legally
3 defensible test results to the Board within seven (7) business days of receipt of the
4 specimen. The Board will be notified of non-negative results within one (1) business day
5 and will be notified of negative test results within seven (7) business days.

6 (g) Its testing locations possess all the materials, equipment, and technical expertise
7 necessary in order to test Respondent on any day of the week.

8 (h) Its testing locations are able to scientifically test for urine, blood, and hair specimens
9 for the detection of alcohol and illegal and controlled substances.

10 (i) It maintains testing sites located throughout California.

11 (j) It maintains an automated 24-hour toll-free telephone system and/or a secure on-line
12 computer database that allows the Respondent to check in daily for testing.

13 (k) It maintains a secure, HIPAA-compliant website or computer system that allows staff
14 access to drug test results and compliance reporting information that is available 24 hours a
15 day.

16 (l) It employs or contracts with toxicologists that are licensed physicians and have
17 knowledge of substance abuse disorders and the appropriate medical training to interpret
18 and evaluate laboratory biological fluid test results, medical histories, and any other
19 information relevant to biomedical information.

20 (m) It will not consider a toxicology screen to be negative if a positive result is obtained
21 while practicing, even if the Respondent holds a valid prescription for the substance.

22 Prior to changing testing locations for any reason, including during vacation or other travel,
23 alternative testing locations must be approved by the Board and meet the requirements above.

24 The contract shall require that the laboratory directly notify the Board or its designee of
25 non-negative results within one (1) business day and negative test results within seven (7)
26 business days of the results becoming available. Respondent shall maintain this laboratory or
27 service contract during the period of probation.

28 A certified copy of any laboratory test result may be received in evidence in any

1 proceedings between the Board and Respondent.

2 If a biological fluid test result indicates Respondent has used, consumed, ingested, or
3 administered to himself or herself a prohibited substance, the Board shall order Respondent to
4 cease practice and instruct Respondent to leave any place of work where Respondent is practicing
5 medicine or providing medical services. The Board shall immediately notify all of Respondent's
6 employers, supervisors and work monitors, if any, that Respondent may not practice medicine or
7 provide medical services while the cease-practice order is in effect.

8 A biological fluid test will not be considered negative if a positive result is obtained while
9 practicing, even if the practitioner holds a valid prescription for the substance. If no prohibited
10 substance use exists, the Board shall lift the cease-practice order within one (1) business day.

11 After the issuance of a cease-practice order, the Board shall determine whether the positive
12 biological fluid test is in fact evidence of prohibited substance use by consulting with the
13 specimen collector and the laboratory, communicating with the licensee, his or her treating
14 physician(s), other health care provider, or group facilitator, as applicable.

15 For purposes of this condition, the terms "biological fluid testing" and "testing" mean the
16 acquisition and chemical analysis of a Respondent's urine, blood, breath, or hair.

17 For purposes of this condition, the term "prohibited substance" means an illegal drug, a
18 lawful drug not prescribed or ordered by an appropriately licensed health care provider for use by
19 Respondent and approved by the Board, alcohol, or any other substance the Respondent has been
20 instructed by the Board not to use, consume, ingest, or administer to himself or herself.

21 If the Board confirms that a positive biological fluid test is evidence of use of a prohibited
22 substance, Respondent has committed a major violation, as defined in section 1361.52(a), and the
23 Board shall impose any or all of the consequences set forth in section 1361.52(b), in addition to
24 any other terms or conditions the Board determines are necessary for public protection or to
25 enhance Respondent's rehabilitation.

26 7. SUBSTANCE ABUSE SUPPORT GROUP MEETINGS. Within thirty (30) days of the
27 effective date of this Decision, Respondent shall submit to the Board or its designee, for its prior
28 approval, the name of a substance abuse support group which he or she shall attend for the

1 duration of probation. Respondent shall attend substance abuse support group meetings at least
2 once per week, or as ordered by the Board or its designee. Respondent shall pay all substance
3 abuse support group meeting costs.

4 The facilitator of the substance abuse support group meeting shall have a minimum of three
5 (3) years experience in the treatment and rehabilitation of substance abuse, and shall be licensed
6 or certified by the state or nationally certified organizations. The facilitator shall not have a
7 current or former financial, personal, or business relationship with Respondent within the last five
8 (5) years. Respondent's previous participation in a substance abuse group support meeting led by
9 the same facilitator does not constitute a prohibited current or former financial, personal, or
10 business relationship.

11 The facilitator shall provide a signed document to the Board or its designee showing
12 Respondent's name, the group name, the date and location of the meeting, Respondent's
13 attendance, and Respondent's level of participation and progress. The facilitator shall report any
14 unexcused absence by Respondent from any substance abuse support group meeting to the Board,
15 or its designee, within twenty-four (24) hours of the unexcused absence.

16 8. WORKSITE MONITOR FOR SUBSTANCE-ABUSING LICENSEE. Within thirty
17 (30) calendar days of the effective date of this Decision, Respondent shall submit to the Board or
18 its designee for prior approval as a worksite monitor, the name and qualifications of one or more
19 licensed physician and surgeon, other licensed health care professional if no physician and
20 surgeon is available, or, as approved by the Board or its designee, a person in a position of
21 authority who is capable of monitoring the Respondent at work.

22 The worksite monitor shall not have a current or former financial, personal, or familial
23 relationship with Respondent, or any other relationship that could reasonably be expected to
24 compromise the ability of the monitor to render impartial and unbiased reports to the Board or its
25 designee. If it is impractical for anyone but Respondent's employer to serve as the worksite
26 monitor, this requirement may be waived by the Board or its designee, however, under no
27 circumstances shall Respondent's worksite monitor be an employee or supervisee of the licensee.

28 The worksite monitor shall have an active unrestricted license with no disciplinary action

1 within the last five (5) years, and shall sign an affirmation that he or she has reviewed the terms
2 and conditions of Respondent's disciplinary order and agrees to monitor Respondent as set forth
3 by the Board or its designee.

4 Respondent shall pay all worksite monitoring costs.

5 The worksite monitor shall have face-to-face contact with Respondent in the work
6 environment on as frequent a basis as determined by the Board or its designee, but not less than
7 once per week; interview other staff in the office regarding Respondent's behavior, if requested
8 by the Board or its designee; and review Respondent's work attendance.

9 The worksite monitor shall verbally report any suspected substance abuse to the Board and
10 Respondent's employer or supervisor within one (1) business day of occurrence. If the suspected
11 substance abuse does not occur during the Board's normal business hours, the verbal report shall
12 be made to the Board or its designee within one (1) hour of the next business day. A written
13 report that includes the date, time, and location of the suspected abuse; Respondent's actions; and
14 any other information deemed important by the worksite monitor shall be submitted to the Board
15 or its designee within 48 hours of the occurrence.

16 The worksite monitor shall complete and submit a written report monthly or as directed by
17 the Board or its designee which shall include the following: (1) Respondent's name and
18 Physician's and Surgeon's Certificate number; (2) the worksite monitor's name and signature; (3)
19 the worksite monitor's license number, if applicable; (4) the location or location(s) of the
20 worksite; (5) the dates Respondent had face-to-face contact with the worksite monitor; (6) the
21 names of worksite staff interviewed, if applicable; (7) a report of Respondent's work attendance;
22 (8) any change in Respondent's behavior and/or personal habits; and (9) any indicators that can
23 lead to suspected substance abuse by Respondent. Respondent shall complete any required
24 consent forms and execute agreements with the approved worksite monitor and the Board, or its
25 designee, authorizing the Board, or its designee, and worksite monitor to exchange information.

26 If the worksite monitor resigns or is no longer available, Respondent shall, within five (5)
27 calendar days of such resignation or unavailability, submit to the Board or its designee, for prior
28 approval, the name and qualifications of a replacement monitor who will be assuming that

responsibility within fifteen (15) calendar days. If Respondent fails to obtain approval of a replacement monitor within sixty (60) calendar days of the resignation or unavailability of the monitor, Respondent shall receive a notification from the Board or its designee to cease the practice of medicine within three (3) calendar days after being so notified. Respondent shall cease the practice of medicine until a replacement monitor is approved and assumes monitoring responsibility.

9. **VIOLATION OF PROBATION CONDITION FOR SUBSTANCE ABUSING LICENSEES.** Failure to fully comply with any term or condition of probation is a violation of probation.

A. If Respondent commits a major violation of probation as defined by section 1361.52, subdivision (a), of Title 16 of the California Code of Regulations, the Board shall take one or more of the following actions:

(1) Issue an immediate cease-practice order and order Respondent to undergo a clinical diagnostic evaluation to be conducted in accordance with section 1361.5, subdivision (c)(1), of Title 16 of the California Code of Regulations, at Respondent's expense. The cease-practice order issued by the Board or its designee shall state that Respondent must test negative for at least a month of continuous biological fluid testing before being allowed to resume practice. For purposes of determining the length of time a Respondent must test negative while undergoing continuous biological fluid testing following issuance of a cease-practice order, a month is defined as thirty calendar (30) days. Respondent may not resume the practice of medicine until notified in writing by the Board or its designee that he or she may do so.

(2) Increase the frequency of biological fluid testing.

(3) Refer Respondent for further disciplinary action, such as suspension, revocation, or other action as determined by the Board or its designee.

B. If Respondent commits a minor violation of probation as defined by section 1361.52, subdivision (c), of Title 16 of the California Code of Regulations, the Board shall take one or more of the following actions:

(1) Issue a cease-practice order;

- (2) Order practice limitations;
- (3) Order or increase supervision of Respondent;
- (4) Order increased documentation;
- (5) Issue a citation and fine, or a warning letter;
- (6) Order Respondent to undergo a clinical diagnostic evaluation to be conducted in accordance with section 1361.5, subdivision (c)(1), of Title 16 of the California Code of Regulations, at Respondent's expense;
- (7) Take any other action as determined by the Board or its designee.

C. Nothing in this Decision shall be considered a limitation on the Board's authority to revoke Respondent's probation if he or she has violated any term or condition of probation. If Respondent violates probation in any respect, the Board, after giving Respondent notice and the opportunity to be heard, may revoke probation and carry out the disciplinary order that was stayed. If an Accusation, or Petition to Revoke Probation, or an Interim Suspension Order is filed against Respondent during probation, the Board shall have continuing jurisdiction until the matter is final, and the period of probation shall be extended until the matter is final.

10. NOTIFICATION. Within seven (7) days of the effective date of this Decision, the Respondent shall provide a true copy of this Decision and First Amended Accusation to the Chief of Staff or the Chief Executive Officer at every hospital where privileges or membership are extended to Respondent, at any other facility where Respondent engages in the practice of medicine, including all physician and locum tenens registries or other similar agencies, and to the Chief Executive Officer at every insurance carrier which extends malpractice insurance coverage to Respondent. Respondent shall submit proof of compliance to the Board or its designee within 15 calendar days.

This condition shall apply to any change(s) in hospitals, other facilities or insurance carrier.

11. PATIENT DISCLOSURE.

Before a patient's first visit following the effective date of this order and while the respondent is on probation, the respondent must provide all patients, or patient's guardian or health care surrogate, with a separate disclosure that includes the respondent's probation status,

1 the length of the probation, the probation end date, all practice restrictions placed on the
2 respondent by the board, the board's telephone number, and an explanation of how the patient can
3 find further information on the respondent's probation on the respondent's profile page on the
4 board's website. Respondent shall obtain from the patient, or the patient's guardian or health care
5 surrogate, a separate, signed copy of that disclosure. Respondent shall not be required to provide
6 a disclosure if any of the following applies: (1) The patient is unconscious or otherwise unable to
7 comprehend the disclosure and sign the copy of the disclosure and a guardian or health care
8 surrogate is unavailable to comprehend the disclosure and sign the copy; (2) The visit occurs in
9 an emergency room or an urgent care facility or the visit is unscheduled, including consultations
10 in inpatient facilities; (3) Respondent is not known to the patient until immediately prior to the
11 start of the visit; (4) Respondent does not have a direct treatment relationship with the patient.

12 12. SUPERVISION OF PHYSICIAN ASSISTANTS AND ADVANCED PRACTICE
13 NURSES. During probation, Respondent is prohibited from supervising physician assistants and
14 advanced practice nurses.

15 13. OBEY ALL LAWS. Respondent shall obey all federal, state and local laws, all rules
16 governing the practice of medicine in California and remain in full compliance with any court
17 ordered criminal probation, payments, and other orders.

18 14. QUARTERLY DECLARATIONS. Respondent shall submit quarterly declarations
19 under penalty of perjury on forms provided by the Board, stating whether there has been
20 compliance with all the conditions of probation.

21 Respondent shall submit quarterly declarations not later than 10 calendar days after the end
22 of the preceding quarter.

23 15. GENERAL PROBATION REQUIREMENTS.

24 Compliance with Probation Unit

25 Respondent shall comply with the Board's probation unit.

26 Address Changes

27 Respondent shall, at all times, keep the Board informed of Respondent's business and
28 residence addresses, email address (if available), and telephone number. Changes of such

addresses shall be immediately communicated in writing to the Board or its designee. Under no circumstances shall a post office box serve as an address of record, except as allowed by Business and Professions Code section 2021(b).

Place of Practice

Respondent shall not engage in the practice of medicine in Respondent's or patient's place of residence, unless the patient resides in a skilled nursing facility or other similar licensed facility.

License Renewal

Respondent shall maintain a current and renewed California physician's and surgeon's license.

Travel or Residence Outside California

Respondent shall immediately inform the Board or its designee, in writing, of travel to any areas outside the jurisdiction of California which lasts, or is contemplated to last, more than thirty (30) calendar days.

In the event Respondent should leave the State of California to reside or to practice, Respondent shall notify the Board or its designee in writing 30 calendar days prior to the dates of departure and return.

16. INTERVIEW WITH THE BOARD OR ITS DESIGNEE. Respondent shall be available in person upon request for interviews either at Respondent's place of business or at the probation unit office, with or without prior notice throughout the term of probation.

17. NON-PRACTICE WHILE ON PROBATION. Respondent shall notify the Board or its designee in writing within 15 calendar days of any periods of non-practice lasting more than 30 calendar days and within 15 calendar days of Respondent's return to practice. Non-practice is defined as any period of time Respondent is not practicing medicine as defined in Business and Professions Code sections 2051 and 2052 for at least 40 hours in a calendar month in direct patient care, clinical activity or teaching, or other activity as approved by the Board. If Respondent resides in California and is considered to be in non-practice, Respondent shall comply with all terms and conditions of probation. All time spent in an intensive training

1 program which has been approved by the Board or its designee shall not be considered non-
2 practice and does not relieve Respondent from complying with all the terms and conditions of
3 probation. Practicing medicine in another state of the United States or Federal jurisdiction while
4 on probation with the medical licensing authority of that state or jurisdiction shall not be
5 considered non-practice. A Board-ordered suspension of practice shall not be considered as a
6 period of non-practice.

7 In the event Respondent's period of non-practice while on probation exceeds 18 calendar
8 months, Respondent shall successfully complete the Federation of State Medical Boards's Special
9 Purpose Examination, or, at the Board's discretion, a clinical competence assessment program
10 that meets the criteria of Condition 18 of the current version of the Board's "Manual of Model
11 Disciplinary Orders and Disciplinary Guidelines" prior to resuming the practice of medicine.

12 Respondent's period of non-practice while on probation shall not exceed two (2) years.

13 Periods of non-practice will not apply to the reduction of the probationary term.

14 Periods of non-practice for a Respondent residing outside of California will relieve
15 Respondent of the responsibility to comply with the probationary terms and conditions with the
16 exception of this condition and the following terms and conditions of probation: Obey All Laws;
17 General Probation Requirements; Quarterly Declarations; Abstain from the Use of Alcohol and/or
18 Controlled Substances; and Biological Fluid Testing.

19 18. COMPLETION OF PROBATION. Respondent shall comply with all financial
20 obligations (e.g., restitution, probation costs) not later than 120 calendar days prior to the
21 completion of probation. Upon successful completion of probation, Respondent's certificate shall
22 be fully restored.

23 19. VIOLATION OF PROBATION. Failure to fully comply with any term or condition of
24 probation is a violation of probation. If Respondent violates probation in any respect, the Board,
25 after giving Respondent notice and the opportunity to be heard, may revoke probation and carry
26 out the disciplinary order that was stayed. If an Accusation, or Petition to Revoke Probation, or an
27 Interim Suspension Order is filed against Respondent during probation, the Board shall have
28 continuing jurisdiction until the matter is final, and the period of probation shall be extended until

1 the matter is final.

2 20. LICENSE SURRENDER. Following the effective date of this Decision, if Respondent
3 ceases practicing due to retirement or health reasons or is otherwise unable to satisfy the terms
4 and conditions of probation, Respondent may request to surrender his or her license. The Board
5 reserves the right to evaluate Respondent's request and to exercise its discretion in determining
6 whether or not to grant the request, or to take any other action deemed appropriate and reasonable
7 under the circumstances. Upon formal acceptance of the surrender, Respondent shall within 15
8 calendar days deliver Respondent's wallet and wall certificate to the Board or its designee and
9 Respondent shall no longer practice medicine. Respondent will no longer be subject to the terms
10 and conditions of probation. If Respondent re-applies for a medical license, the application shall
11 be treated as a petition for reinstatement of a revoked certificate.

12 21. PROBATION MONITORING COSTS. Respondent shall pay the costs associated
13 with probation monitoring each and every year of probation, as designated by the Board, which
14 may be adjusted on an annual basis. Such costs shall be payable to the Medical Board of
15 California and delivered to the Board or its designee no later than January 31 of each calendar
16 year.

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1
2 ACCEPTANCE

3 I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully
4 discussed it with my attorney, Louis J. Anapolsky. I understand the stipulation and the effect it
5 will have on my Physician's and Surgeon's Certificate. I enter into this Stipulated Settlement and
6 Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be bound by the
7 Decision and Order of the Medical Board of California.

8
9 DATED: 7-17-19

Rajwinder Singh Bahia, M.D.
10 RAJWINDER SINGH BAHIA, M.D.
Respondent

11 I have read and fully discussed with Respondent Rajwinder Singh Bahia, M.D. the terms
12 and conditions and other matters contained in the above Stipulated Settlement and Disciplinary
13 Order. I approve its form and content.

14 DATED: July 18, 2019

Louis J. Anapolsky
15 LOUIS J. ANAPOLSKY
Attorney for Respondent

16
17
18 ENDORSEMENT

19 The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully
20 submitted for consideration by the Medical Board of California.

21 DATED: July 23, 2019

22 Respectfully submitted,

23 XAVIER BECERRA
Attorney General of California
24 STEVEN D. MUNI
Supervising Deputy Attorney General

25 Megan R. O'Carroll
26 MEGAN R. O'CARROLL
27 Deputy Attorney General
28 Attorneys for Complainant

Exhibit A

First Amended Accusation No. 800-2018-051290

1 XAVIER BECERRA
Attorney General of California
2 STEVEN D. MUNI
Supervising Deputy Attorney General
3 MEGAN R. O'CARROLL
Deputy Attorney General
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6 Telephone: (916) 210-7543
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7 *Attorneys for Complainant*

8
9
10 **BEFORE THE**
11 **MEDICAL BOARD OF CALIFORNIA**
12 **DEPARTMENT OF CONSUMER AFFAIRS**
13 **STATE OF CALIFORNIA**

13 In the Matter of the Amended Accusation
14 Against:

Case No. 800-2018-051290

15 **RAJWINDER SINGH BAHIA, M.D.**
3921 Ruisdael Dr.
16 Modesto, CA 95356

AMENDED ACCUSATION

17 **Physician's and Surgeon's Certificate**
18 **No. A 106330,**

Respondent.

19
20 **PARTIES**

21 1. Kimberly Kirchmeyer (Complainant) brings this Amended Accusation solely in her
22 official capacity as the Executive Director of the Medical Board of California, Department of
23 Consumer Affairs (Board).

24 2. On or about December 19, 2008, the Medical Board issued Physician's and Surgeon's
25 Certificate Number A 106330 to Rajwinder Singh Bahia, M.D. (Respondent). The Physician's
26 and Surgeon's Certificate was in full force and effect at all times relevant to the charges brought
27 herein and will expire on June 30, 2020, unless renewed.

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3. On or about June 3, 2019, the Office of Administrative Hearings issued an Order approving a May 24, 2019 stipulation for an interim order of suspension on Physician's and Surgeon's License No. A 106330, placing restrictions, including biological fluid monitoring, on Respondent's license until a final decision is adopted on this Amended Accusation. On or about June 28, 2019, Complainant issued an order directing Respondent to immediately cease the practice of medicine for failing to comply with a random biological fluid test within the specified time.

JURISDICTION

4. This Amended Accusation is brought before the Board, under the authority of the following laws. All section references are to the Business and Professions Code (Code) unless otherwise indicated.

5. Section 2227 of the Code provides that a licensee who is found guilty under the Medical Practice Act may have his or her license revoked, suspended for a period not to exceed one year, placed on probation and required to pay the costs of probation monitoring, or such other action taken in relation to discipline as the Board deems proper.

6. Section 2234 of the Code, states:

The board shall take action against any licensee who is charged with unprofessional conduct. In addition to other provisions of this article, unprofessional conduct includes, but is not limited to, the following:

(a) Violating or attempting to violate, directly or indirectly, assisting in or abetting the violation of, or conspiring to violate any provision of this chapter.

(b) Gross negligence.

(c) Repeated negligent acts. To be repeated, there must be two or more negligent acts or omissions. An initial negligent act or omission followed by a separate and distinct departure from the applicable standard of care shall constitute repeated negligent acts.

(1) An initial negligent diagnosis followed by an act or omission medically appropriate for that negligent diagnosis of the patient shall constitute a single negligent act.

(2) When the standard of care requires a change in the diagnosis, act, or omission that constitutes the negligent act described in paragraph (1), including, but not limited to, a reevaluation of the diagnosis or a change in treatment, and the licensee's conduct departs from the applicable standard of care, each departure constitutes a separate and distinct breach of the standard of care.

1 (d) Incompetence.

2 (e) The commission of any act involving dishonesty or corruption which is
3 substantially related to the qualifications, functions, or duties of a physician and
surgeon.

4 (f) Any action or conduct which would have warranted the denial of a
5 certificate.

6 (g) The practice of medicine from this state into another state or country
7 without meeting the legal requirements of that state or country for the practice of
8 medicine. Section 2314 shall not apply to this subdivision. This subdivision shall
become operative upon the implementation of the proposed registration program
described in Section 2052.5.

9 (h) The repeated failure by a certificate holder, in the absence of good cause, to
attend and participate in an interview by the board. This subdivision shall only apply
10 to a certificate holder who is the subject of an investigation by the board.

11 7. Section 2239 of the Code states:

12 (a) The use or prescribing for or administering to himself or herself, of any
13 controlled substance; or the use of any of the dangerous drugs specified in Section
4022, or of alcoholic beverages, to the extent, or in such a manner as to be dangerous
14 or injurious to the licensee, or to any other person or to the public, or to the extent that
such use impairs the ability of the licensee to practice medicine safely or more than
one misdemeanor or any felony involving the use, consumption, or
15 self-administration of any of the substances referred to in this section, or any
combination thereof, constitutes unprofessional conduct. The record of the
conviction is conclusive evidence of such unprofessional conduct.

16 (b) A plea or verdict of guilty or a conviction following a plea of nolo
17 contendere is deemed to be a conviction within the meaning of this section. The
Medical Board may order discipline of the licensee in accordance with Section 2227
18 or the Medical Board may order the denial of the license when the time for appeal has
elapsed or the judgment of conviction has been affirmed on appeal or when an order
19 granting probation is made suspending imposition of sentence, irrespective of a
subsequent order under the provisions of Section 1203.4 of the Penal Code allowing
20 such person to withdraw his or her plea of guilty and to enter a plea of not guilty, or
setting aside the verdict of guilty, or dismissing the accusation, complaint,
21 information, or indictment.

22 8. Unprofessional conduct under Section 2234 of the Code is conduct which breaches
23 the rules or ethical code of the medical profession, or conduct which is unbecoming to a member
24 in good standing of the medical profession, and which demonstrates an unfitness to practice
25 medicine. (*Shea v. Board of Medical Examiners* (1978) 81 Cal.App.3d 564, 575.)

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1 **FIRST CAUSE FOR DISCIPLINE**

2 **(Use of Alcohol in a Dangerous Manner)**

3 9. Respondent is subject to disciplinary action under section 2239 in that he used
4 alcohol in a dangerous manner. The circumstances are as follows:

5 10. On or about November 14, 2018, Respondent was the on-duty Hospitalist at the Oak
6 Valley Hospital District in Oakdale, California. He was scheduled to be on duty throughout the
7 night. A female friend came to visit him in the Hospitalist's sleeping room sometime between
8 7:30 p.m. and 8:00 p.m. that evening. The Hospitalist's sleeping room functions as a break area
9 for doctors to rest when they are on-duty for an extended shift in between performing their duties.
10 It contains a bed and other amenities. Respondent's friend brought alcohol with her when she
11 visited him that evening, including a bottle of champagne and a bottle of cognac, and the two
12 consumed it together.

13 11. Sometime before 9:30 p.m., Respondent's long-term girlfriend drove into the parking
14 lot of the Oak Valley Hospital and approached the Hospitalist's sleeping room. When
15 Respondent's girlfriend approached the Hospitalist's sleeping room, she was able to see through
16 the window that Respondent and an unknown woman were having sex on the bed inside the
17 room. She began screaming and banging on the door. When Respondent opened the door, she
18 pushed past him and attacked the woman in the room with him. Respondent attempted to
19 separate the two women, and his girlfriend scratched him on the side of his face. (*Ibid.*) The
20 woman who had been in the room with Respondent reportedly fled the scene and Respondent
21 refused to identify her.

22 12. The Officer spoke with both Respondent and the girlfriend. The Officer noticed that
23 Respondent slurred his words, his motor skills seemed slowed and there was an odor of an
24 alcoholic beverage coming from his person. The Officer observed a disheveled bed in one corner
25 of the Hospitalist's sleeping room, and used condoms. He noted that there were multiple open
26 bottles of alcoholic beverages. Respondent indicated that he did not want to file criminal charges
27 against his girlfriend for scratching him, and the Officer left the scene.

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13. The hospital security called hospital administrators to respond to the scene. The administrators requested Respondent to undergo testing of his blood alcohol level. Respondent was admitted to the Emergency Room at Oak Valley Hospital on or about November 14, 2018, at approximately 11:49 p.m. Respondent complained of experiencing hypoglycemia related to his diabetes condition. In the Emergency Room, Respondent was provided fluids and his blood was drawn to be tested for alcohol. The results of the blood analysis showed that at approximately 12:45 a.m., his blood alcohol content was .21%, and at approximately 3:00 a.m., it was .12%. At approximately 4:06 a.m., Respondent was discharged to his brother's care and released home.

14. Respondent participated in an interview with Board investigators after this incident. He acknowledged that he had consumed alcohol that evening and that he was feeling the effects of it. He reported that it was rare for him to be called upon to perform patient care duties in the evening hours, but he acknowledged that he was still on duty and that he could be called upon at any time while on duty. Respondent was arrested for driving under the influence of alcohol in approximately 2009. Respondent is currently working as a hospitalist at multiple locations in Modesto and Mariposa counties.

SECOND CAUSE FOR DISCIPLINE

(General Unprofessional Conduct)

15. Respondent is subject to disciplinary action under section 2234 in that he has engaged in conduct which breaches the rules or ethical code of the medical profession, or conduct which is unbecoming in a member in good standing of the medical profession, and which demonstrates an unfitness to practice medicine.

16. Paragraphs 9 through 14, above, are incorporated by reference and realleged as if fully set forth here.

17. Respondent's conduct as described constitutes general unprofessional conduct in violation of Business and Professions Code sections 2234 of the Medical Practices Act, and therefore, subjects his license to discipline.

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PRAYER

WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the Medical Board of California issue a decision:

1. Revoking or suspending Physician's and Surgeon's Certificate Number A 106330, issued to Rajwinder Singh Bahia, M.D.;
2. Revoking, suspending or denying approval of Rajwinder Singh Bahia, M.D.'s authority to supervise physician assistants and advanced practice nurses;
3. Ordering Rajwinder Singh Bahia, M.D., if placed on probation, to pay the Board the costs of probation monitoring; and
4. Taking such other and further action as deemed necessary and proper.

DATED: July 15, 2019


KIMBERLY KIRCHMEYER
Executive Director
Medical Board of California
Department of Consumer Affairs
State of California
Complainant

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